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NETWORK SOLUTIONS, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DOE, Individually And On Behalf Of All
Others Similarly Situated,

Plaintiff,

vs.

NETWORK SOLUTIONS, LLC,

Defendant.

No. C 07-5115 JSW

[PROPOSED] ORDER DISMISSING
PLAINTIFF'S COMPLAINT
PURSUANT TO FEDERAL RULE OF
CIVIL PROCEDURE §12(b)6

Judge: Hon. Jeffrey S. White
Date: January 25, 2008
Time: 9:00 a.m.
CrtRm: 2

1 Defendant Network Solutions LLC's ("Network Solutions") Motion to Dismiss for
2 Failure to State a Claim Pursuant to Federal Rule of Civil Procedure 12(b)(6), came on
3 regularly for hearing in Room 2 of this Court on January 25, 2008 at 9:00 a.m. before the
4 Honorable Jeffrey S. White. Network Solutions was represented by the law firm of
5 Pillsbury Winthrop Shaw Pittman LLP and plaintiff Doe ("Plaintiff") was represented by
6 the law firm of Gutridge Safier Reese LLP.

7 After full consideration of the pleadings, records and files herein, including oral
8 argument by both parties, and the authorities submitted by counsel, the Court finds that
9 Plaintiff fails to state a claim upon which relief can be granted. Plaintiff's complaint lacks
10 sufficient factual allegations to "raise a right to relief above the speculative level," and fails
11 to "cross the line between possibility and plausibility of entitlement to relief." Bell Atlantic
12 v. Twombly, 127 S. Ct. 1955, 1965-66 (2007).

13 In particular, the Court finds that Count I, under the Electronic Communications
14 Privacy Act (18 U.S.C. §2702), includes no factual allegations suggesting Network
15 Solutions "knowingly divulged" any information, as that provision requires. Counts II and
16 III, under California's Consumers Legal Remedies Act (Cal. Civ. Code §1750 et seq.) and
17 Unfair Competition Law (Bus & Prof. Code §17200 et seq.), fail to identify any false or
18 misleading representations or advertisements, or any unfair, fraudulent or unlawful business
19 practices. Count IV, under the California Customer Records Act (Cal. Civ. Code §1798.80
20 et seq.), does not apply because the statute sets requirements for the destruction of data,
21 which is not alleged, and otherwise protects information maintained for a business's own
22 use, whereas the customer emails at issue in this case not monitored or used by Network
23 Solutions. Plaintiff's common law claims for public disclosure of private facts (Count V)
24 and unjust enrichment (Count VI) also fail because there are no substantive allegations that
25 show an intentional disclosure, indicating a release of highly personal information, or
26 demonstrating Defendant was unjustly enriched.

1 Based on these findings, the Court GRANTS the Motion to Dismiss pursuant to
2 Federal Rule of Civil Procedure 12(b)(6).

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4 Dated: _____

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Jeffrey S. White
Judge of the United States District Court
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